

REMARKS

In response to final Office Action dated October 14, 2008, claims 29-32, 34, and 38-40 have been amended and claims 1-28, 33, 35-37, 43, 45, 46, and 55-63 have been canceled. Therefore, claims 29-32, 34, 38-42, 44, and 47-54 are now in the case. The Applicants respectfully request that this amendment be entered under 37 C.F.R. 1.116 to place the above-referenced application in condition for allowance or, alternatively, in better condition for appeal. In light of the amendments and arguments set forth herein, reexamination and reconsideration of the application are requested.

Applicant-Initiated Interview Summary

On January 8, 2009, a telephonic interview occurred between Examiner Jean B. Fleurantin and the Applicants' attorney, Craig S. Fischer.

The 35 U.S.C. § 101 rejections of independent claims 29, 40, and 55 were discussed. In particular, possible claim amendments to independent claims 29, 40, and 55 were discussed that may place the application in condition for allowance and overcome the statutory 101 rejection. The Applicants' attorney appreciates the Examiner taking the time to discuss the application and possible claim amendments in an interview setting.

For claim 29, the Examiner suggested that the phrase "computer-readable medium" be amended to either "computer-readable storage medium" or "computer-readable memory medium," whichever the Applicants' specification best supported. In addition, the Examiner suggested that all dependent claims of claim 29 be amended to include this change.

For claim 40, the Examiner suggested that the phrase "computer-readable media" be amended to either "computer-readable storage media" or "computer-readable memory media," similar to the change made in claim 29. Also, the Examiner suggested adding language to the body of the claim that would indicate that a computer is performing the process actions set forth in the remainder of the claim.

Section 101 Rejections

The final Office Action rejected claims 29-32, 34, 38-42, 44, and 47-63 under 35 U.S.C. § 101 “because the claimed invention is directed to non-statutory subject matter.”

In particular, the Office Action stated that claim 29 is directed to a computer-readable medium. “The claimed, ‘medium’ fails to fall with one of four statutory categories of invention, process, machine, manufacture and composition, and is software *per se*.”

In response, the Applicants have amended independent claim 29 to now recite a computer-readable storage medium having stored and encoded thereon computer-executable instructions that are executable on the computer. The Applicants are not claiming the computer-executable instructions *per se*, but a system that includes the computer-executable instructions, but that is nevertheless statutory.

Specifically, as stated in the MPEP (see Section 2106 (IV)(B)(1)(a) at Page 2100-13, Rev. 2, May 2004):

“Computer programs are often recited as part of a claim. Office personnel should determine whether the computer program is being claimed as part of an otherwise statutory manufacture or machine. In such a case, the claim remains statutory irrespective of the fact that a computer program is included in the claim. **The same result occurs when a computer program is used in a computerized process where the computer executes the instructions set forth in the computer program.**”

In addition, the Applicants have amended independent claim 40 such that the preamble of claim 40 now recites a “computer-implemented method contained on computer-readable storage media having stored and encoded thereon computer-

executable instructions for execution on a general-purpose computing device for enhancing initial search results of a search engine performing a local search of a web sub-space using a user access log.” In addition, claim 40 also has been amended to recite “using the general-purpose computing device to perform the following process actions” in the body of the claim.

Thus, the Applicants maintain that amended independent claim 40 now ties the method to its corresponding apparatus (the general-purpose computing device) and thus is statutory.

The Applicants note that independent claim 55 has been canceled.

Accordingly, the Applicants respectfully submit that amended independent claim 29 and 40 are patentable under 35 U.S.C. § 101 based on the amendments to claim 29 and 40, and the legal and technical arguments set forth above and below. Moreover, claims 30-32, 34, 38, and 39 depend from amended independent claim 29, and claims 41, 42, 44, and 47-54 depend from amended independent claim 40, and thus are also statutory under 35 U.S.C. § 101 (MPEP § 2143.03). The Applicants, therefore, respectfully request reexamination, reconsideration and withdrawal of the rejection of claims 29-32, 34, 38-42, 44, and 47-63 under 35 U.S.C. § 101.

Section 103(a) Rejections

The Office Action rejected claims 55-63 under 35 U.S.C. § 103(a) as being unpatentable over a paper by Page et al. entitled “The Page Rank Citation Ranking: Bringing Order to the Web - 1998,” and in view of a paper by Pei et al. entitled “Mining Access Patterns Efficiently from Web Logs”. The Office Action contended that the combination of Page et al. and Pei et al. teaches all the elements of the Applicants’ claimed invention.

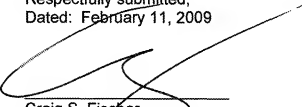
In response, the Applicants respectfully note that claims 55-63 have been canceled.

Conclusion

In view of the amendments to claims 29-32, 34, and 38-40, and the arguments set forth above, the Applicants submit that pending claims 29-32, 34, 38-42, 44, and 47-54 are in condition for immediate allowance. The Examiner, therefore, is respectfully requested to withdraw the outstanding rejections of the claims and to pass each of the pending claims of this application to issue.

In an effort to expedite and further the prosecution of the subject application, the Applicants kindly invite the Examiner to telephone the Applicants' attorney at (805) 278-8855 if the Examiner has any comments, questions or concerns, wishes to discuss any aspect of the prosecution of this application, or desires any degree of clarification of this response.

Respectfully submitted,
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